

§ 1.691(c)-2

(1) The value for estate tax purposes of stock options in respect of which amounts are includible in gross income under section 421(b) (prior to amendment by section 221(a) of the Revenue Act of 1964), in the case of taxable years ending before January 1, 1964, or under section 422(c)(1), 423(c), or 424(c)(1), whichever is applicable, in the case of taxable years ending after December 31, 1963. See section 421(d)(6) (prior to amendment by sec. 221(a) of the Revenue Act of 1964), in the case of taxable years ending before January 1, 1964, and section 421(c)(2), in the case of taxable years ending after December 31, 1963.

(2) Amounts received by a surviving annuitant during his life expectancy period as an annuity under a joint and survivor annuity contract to the extent included in gross income under section 72. See section 691(d).

(d) *Examples.* Paragraphs (a) and (b) of this section may be illustrated by the following examples:

Example 1. X, an attorney who kept his books by use of the cash receipts and disbursements method, was entitled at the date of his death to a fee for services rendered in a case not completed at the time of his death, which fee was valued in his estate at \$1,000, and to accrued bond interest, which was valued in his estate at \$500. In all, \$1,500 was included in his gross estate in respect of income described in section 691(a)(1). There were deducted as claims against his estate \$150 for business expenses for which his estate was liable and \$50 for taxes accrued on certain property which he owned. In all, \$200 was deducted for claims which represent amounts described in section 691(b) which are allowable as deductions to his estate or to the beneficiaries of his estate. His gross estate was \$185,000 and, considering deductions of \$15,000 and an exemption of \$60,000, his taxable estate amounted to \$110,000. The estate tax on this amount is \$23,700 from which is subtracted a \$75 credit for State death taxes leaving an estate tax liability of \$23,625. In the year following the closing of X's estate, the fee in the amount of \$1,200 was collected by X's son, who was the sole beneficiary of the estate. This amount was included under section 691(a)(1)(C) in the son's gross income. The son may deduct, in computing his taxable income for such year, \$260 on account of the estate tax attributable to such income, computed as follows:

(1) (i) Value of income described in section 691(a)(1) included in computing gross estate	\$1,500
---	---------

26 CFR Ch. I (4-1-10 Edition)

(ii) Deductions in computing gross estate for claims representing deductions described in section 691(b)	200
(iii) Net value of items described in section 691(a)(1)	1,300
(2) (i) Estate tax	23,625
(ii) Less: Estate tax computed without including \$1,300 (item (1)(iii)) in gross estate	23,235
(iii) Portion of estate tax attributable to net value of items described in section 691(a)(1)	390
(3) (i) Value in gross estate of items described in section 691(a)(1) received in taxable year (fee)	1,000
(ii) Value in gross estate of all income items described in section 691(a)(1) (item (1)(i))	1,500
(iii) Part of estate tax deductible on account of receipt of \$1,200 fee (1,000/1,500 of \$390)	260

Although \$1,200 was later collected as the fee, only the \$1,000 actually included in the gross estate is used in the above computations. However, to avoid distortion, section 691(c) provides that if the value included in the gross estate is greater than the amount finally collected, only the amount collected shall be used in the above computations. Thus, if the amount collected as the fee were only \$500, the estate tax deductible on the receipt of such amount would be 500/1,500 of \$390, or \$130. With respect to taxable years ending before January 1, 1964, see paragraph (d)(3) of § 1.421-5 for a similar example involving a restricted stock option. With respect to taxable years ending after December 31, 1963, see paragraph (c)(3) of § 1.421-8 for a similar example involving a stock option subject to the provisions of part II of subchapter D.

Example 2. Assume that in example 1 the fee valued at \$1,000 had been earned by prior decedent Y and had been inherited by X who died before collecting it. With regard to the son, the fee would be considered income in respect of a prior decedent. Assume further that the fee was valued at \$1,000 in Y's estate, that the net value in Y's estate of items described in section 691 (a)(1) was \$5,000 and that the estate tax imposed on Y's estate attributable to such net value was \$550. In such case, the portion of such estate tax attributable to the fee would be 1,000/5,000 of \$550, or \$110. When the son collects the \$1,200 fee, he will receive for the same taxable year a deduction of \$110 with respect to the estate tax imposed on the estate of prior decedent Y as well as the deduction of \$260 (as computed in example 1) with respect to the estate tax imposed on the estate of decedent X.

[T.D. 6500, 25 FR 11814, Nov. 26, 1960, as amended by T.D. 6887, 31 FR 8812, June 24, 1966]

§ 1.691(c)-2 Estates and trusts.

(a) In the case of an estate or trust, the deduction prescribed in section

Internal Revenue Service, Treasury

§ 1.691(c)-2

691(c) is determined in the same manner as described in § 1.691(c)-1, with the following exceptions:

(1) If any amount properly paid, credited, or required to be distributed by an estate or trust to a beneficiary consists of income in respect of a decedent received by the estate or trust during the taxable year:

(i) Such income shall be excluded in determining the income in respect of the decedent with respect to which the estate or trust is entitled to a deduction under section 691(c), and

(ii) Such income shall be considered income in respect of a decedent to such beneficiary for purposes of allowing the deduction under section 691(c) to such beneficiary.

(2) For determination of the amount of income in respect of a decedent received by the beneficiary, see sections 652 and 662, and §§ 1.652(b)-2 and 1.662(b)-2. However, for this purpose, distributable net income as defined in section 643 (a) and the regulations thereunder shall be computed without taking into account the estate tax deduction provided in section 691(c) and this section. Distributable net income as modified under the preceding sentence shall be applied for other relevant purposes of subchapter J, chapter 1 of the Code, such as the deduction provided by section 651 or 661, or subpart D, part I of subchapter J, relating to excess distributions by trusts.

(3) The rule stated in subparagraph (1) of this paragraph does not apply to income in respect of a decedent which is properly allocable to corpus by the fiduciary during the taxable year but which is distributed to a beneficiary in a subsequent year. The deduction provided by section 691(c) in such a case is allowable only to the estate or trust. If any amount properly paid, credited, or required to be distributed by a trust qualifies as a distribution under section 666, the fact that a portion thereof constitutes income in respect of a decedent shall be disregarded for the purposes of determining the deduction of the trust and of the beneficiaries under section 691(c) since the deduction for estate taxes was taken into consideration in computing the undistributed net income of the trust for the preceding taxable year.

(b) This section shall apply only to amounts properly paid, credited, or required to be distributed in taxable years of an estate or trust beginning after December 31, 1953, and ending after August 16, 1954, except as otherwise provided in paragraph (c) of this section.

(c) In the case of an estate or trust heretofore taxable under the provisions of the Internal Revenue Code of 1939, amounts paid, credited, or to be distributed during its first taxable year subject to the Internal Revenue Code of 1954 which would have been treated as paid, credited, or to be distributed on the last day of the preceding taxable year if the Internal Revenue Code of 1939 were still applicable shall not be subject to the provisions of section 691(c)(1)(B) or this section. See section 683 and the regulations thereunder.

(d) The provisions of this section may be illustrated by the following example, in which it is assumed that the estate and the beneficiary make their returns on the calendar year basis:

Example. (1) The fiduciary of an estate receives taxable interest of \$5,500 and income in respect of a decedent of \$4,500 during the taxable year. Neither the will of the decedent nor local law requires the allocation to corpus of income in respect of a decedent. The estate tax attributable to the income in respect of a decedent is \$1,500. In his discretion, the fiduciary distributes \$2,000 (falling within sections 661(a) and 662(a)) to a beneficiary during that year. On these facts the fiduciary and beneficiary are respectively entitled to estate tax deductions of \$1,200 and \$300, computed as follows:

(2) Distributable net income computed under section 643(a) without regard to the estate tax deduction under section 691(c) is \$10,000, computed as follows:

Taxable interest	\$5,500
Income in respect of a decedent	4,500
Total	10,000

(3) Inasmuch as the distributable net income of \$10,000 exceeds the amount of \$2,000 distributed to the beneficiary, the deduction allowable to the estate under section 661(a) and the amount taxable to the beneficiary under section 662(a) is \$2,000.

(4) The character of the amounts distributed to the beneficiary under section 662 (b) is shown in the following table:

§ 1.691(d)-1

26 CFR Ch. I (4-1-10 Edition)

	Taxable interest	Income in respect of a decedent	Total
Distributable net income	\$5,500	\$4,500	\$10,000
Amount deemed distributed under section 662(b)	1,100	900	2,000

(5) Accordingly, the beneficiary will be entitled to an estate tax deduction of \$300 ($900/4,500 \times \$1,500$) and the estate will be entitled to an estate tax deduction of \$1,200 ($3,600/4,500 \times \$1,500$).

(6) The taxable income of the estate is \$6,200, computed as follows:

Gross income	\$10,000
Less:	
Distributions to the beneficiary ...	\$2,000
Estate tax deduction under section 691(c)	1,200
Personal exemption	600
	3,800
Taxable income	6,200

§ 1.691(d)-1 Amounts received by surviving annuitant under joint and survivor annuity contract.

(a) *In general.* Under section 691(d), annuity payments received by a surviving annuitant under a joint and survivor annuity contract (to the extent indicated in paragraph (b) of this section) are treated as income in respect of a decedent under section 691(a) for the purpose of allowing the deduction for estate tax provided for in section 691(c)(1)(A). This section applies only if the deceased annuitant died after December 31, 1953, and after the annuity starting date as defined in section 72(c)(4).

(b) *Special value for surviving annuitant's payments.* Section 691(d) provides a special value for the surviving annuitant's payments to determine the amount of the estate tax deduction provided for in section 691(c)(1)(A). This special value is determined by multiplying:

(1) The excess of the value of the annuity at the date of death of the deceased annuitant over the total amount excludable from the gross income of the surviving annuitant under section 72 during his life expectancy period (see paragraph (d)(1)(i) of this section)

by

(2) A fraction consisting of the value of the annuity for estate tax purposes over the value of the annuity at the

date of death of the deceased annuitant.

This special value is used for the purpose of determining the net value for estate tax purposes (see section 691(c)(2)(B) and paragraph (a)(1) of § 1.691(c)-1) and for the purpose of determining the portion of estate tax attributable to the survivor's annuity (see paragraph (a) of § 1.691(c)-1).

(c) *Amount of deduction.* The portion of estate tax attributable to the survivor's annuity (see paragraph (a) of § 1.691(c)-1) is allowable as a deduction to the surviving annuitant over his life expectancy period. If the surviving annuitant continues to receive annuity payments beyond this period, there is no further deduction under section 691(d). If the surviving annuitant dies before expiration of such period, there is no compensating adjustment for the unused deduction.

(d) *Definitions.* (1) For purposes of section 691(d) and this section:

(i) The term *life expectancy period* means the period beginning with the first day of the first period for which an amount is received by the surviving annuitant under the contract and ending with the close of the taxable year with or in which falls the termination of the life expectancy of the surviving annuitant.

(ii) The life expectancy of the surviving annuitant shall be determined as of the date of death of the deceased annuitant, with reference to actuarial Table I set forth in § 1.72-9 (but without making any adjustment under paragraph (a)(2) of § 1.72-5).

(iii) The value of the annuity at the date of death of the deceased annuitant shall be the entire value of the survivor's annuity determined by reference to the principles set forth in section 2031 and the regulations thereunder, relating to the valuation of annuities for estate tax purposes.

(iv) The value of the annuity for estate tax purposes shall be that portion of the value determined under subdivision (iii) of this subparagraph which was includible in the deceased annuitant's gross estate.

(2) The determination of the "life expectancy period" of the survivor for purposes of section 691(d) may be illustrated by the following example: